IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 4868 of 2005**

Between:

Shaik Abdul Raheem, S/o.Meera Sharif,

42 years, Occ. Secretary,

The Hukumpet Primary Agricultural Coop.

Society Ltd., Hukumpeta, Gopalapuram Mandal,

West Godavari District.

**..... PETITIONER**

AND

1. The Govt. of Andhra Pradesh, rep by its Secretary,
Cooperation Department, Secretariat, Hyderabad.

2. The District Cooperative officer, Eluru,

West Godavari District.

3. The Divisional Cooperative Officer,

Kovvuru, West Godavari District.

4. The Hukumpeta Primary Agricultural

Cooperative Society Ltd.,
rep by its person-in-charge Committee, Hukumpeta,
Gopalapuram Mandal, West Godavari District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more particularly one in the nature of writ of Mandamus by declaring the action of the respondent in placing me under suspension by proceedings dated 14-08-2004 as illegal, arbitrary, without jurisdiction and contrary to the special bye-laws relating to the service conditions of the employee of the cooperative societies and consequently reinstate the petitioner forthwith with all incidental and consequential benefits.

**Counsel for the Petitioner: MR.V.AJAYAKUMAR**
**Counsel for the Respondents: GP FOR COOPERATION**

**The Court, at the admission stage, made the following :**

**THE HON'BLE MR JUSTICE K.C. BHANU**

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**WRIT PETITION NO : 4868 of 2005**

**ORDER:**

This writ petition is filed seeking writ of mandamus, declaring the action of the 4th respondent-Person-in-Charge Committee, Hukumpeta Primary Agricultural Cooperative Society Limited, Hukumpeta, in placing the petitioner under suspension by proceedings dated 14-08-2004, as illegal and arbitrary.

2. According to the petitioner's case, with regard to the misappropriation of society funds to a tune of Rs.2,83,085.65, he was placed under suspension on 14-08-2004. The 4th respondent is not a competent authority to place the petitioner under suspension as he was by the time Person-in-Charge. More over, the 4th respondent without following due procedure under Section 59 of the AP Cooperative Society Act (for brevity 'the Act'), passed the impugned proceedings.

3. The learned counsel for the petitioner contended that when the petitioner was removed from service straight away based upon the report of the enquiry conducted under Section 51 of the Act, the petitioner filed W.P.No.1462 of 2002. This Court allowed the said writ petition by setting aside the impugned order but, however, kept it open to the respondents to proceed against the petitioner in accordance with law. While so, based on the same report, the petitioner was placed under suspension through the proceedings dated 14-08-2004, which is contrary to the special Bye-laws of the society, hence, he prays to set aside the impugned proceedings.

4. The learned Government Pleader for the Co-operation opposed the same on the ground that it is a suspension pending enquiry.

5. Normally, this Court will not interfere with the suspension order which is pending enquiry, unless the jurisdiction of the person who issued the suspension order is under challenge. In this case, the jurisdiction of the impugned proceedings dated 14-08-2004, issued by the 4th respondent is not under challenge. In view of the serious allegations levelled against the petitioner, he was rightly placed under suspension. Therefore, there are no grounds to interfere with the suspension order issued by the 4th respondent. But, since the matter is pending for a long time, appropriate direction can be given to the 4th respondent to complete the enquiry.

6. Accordingly, the writ petition is disposed of directing the 4th respondent-Person-in-Charge Committee, to complete the enquiry within a period of four months from the date of receipt of a copy of this order. The petitioner is entitled to the subsistence allowance as per the rules and bye-laws, as a matter of right, during the suspension period.

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March 11, 2005

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To

1. The Secretary, Government of Andhra Pradesh,
Cooperation Department, Secretariat, Hyderabad.

2. The District Cooperative officer, Eluru, West Godavari
District.

3. The Divisional Cooperative Officer,
Kovvuru, West Godavari District.

4. The person-in-charge Committee, Hukumpeta Primary
Agricultural Cooperative Society Ltd., Hukumpeta,
Gopalapuram Mandal, West Godavari District.

5 2 CCs to G.P. for Cooperation, High Court Buildings,
Hyderabad (OUT)

6 2 CD copies

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